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23389 7590 03/23/2010 SCULLY SCOTT MURPHY & PRESSER, PC 400 GARDEN CITY PLAZA SUITE 300 GARDEN CITY, NY 11530				
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MIKIHIRO GAU, MITSUHIKO OSANAI, TAKASHI ANDO,
HIDENOBU CHIBA, and HIDEAKI KADOWAKI

Appeal 2009-011166
Application 09/965,174
Technology Center 3600

Decided: March 23, 2010

Before HUBERT C. LORIN, ANTON W. FETTING, and BIBHU R.
MOHANTY, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

The Appellants seek our review under 35 U.S.C. § 134 (2002) of the final rejection of claims 7-12 which are all the claims pending in the application. We have jurisdiction under 35 U.S.C. § 6(b) (2002). Oral arguments were presented on March 18, 2010.

SUMMARY OF THE DECISION

We AFFIRM.

THE INVENTION

The Appellants' claimed invention is directed to an information processing system and a method of managing a business process (Spec. 1:7-10). Claim 7, reproduced below with some numbering in brackets added, is representative of the subject matter of appeal.

7. An information processing system for managing performance of a business process, said information processing system having a storage apparatus, and a data processing apparatus, said information processing system comprising:

a first table stored on said storage apparatus, said first table for registering demand information related to request instructions, said demand information being expressed as a combination of 5W1 H-format elemental information comprising 5W information and t H information, said 5W information consisting of who, whom, when, where, and what information and said t H information consisting of how information; and

a second table stored on said storage apparatus, said second table for registering supply information related to results information, said supply information being expressed as a combination of the

5WIH-format elemental information, said supply information being generated by execution and completion of said demand information;

[1] wherein said data processing apparatus executes said business process based on a generation sequence determined by said 1H information of said demand information.

THE REJECTIONS

The Examiner relies upon the following as evidence in support of the rejections:

Wilson	US 2002/0133387 A1	Sep. 19, 2002
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The following rejections are before us for review:

1. Claims 7-12 are rejected under 35 U.S.C. § 102(e) as anticipated by Wilson.

THE ISSUES

At issue is whether the Appellants have shown that the Examiner erred in making the aforementioned rejections.

With regards to claim 1 this issue turns on whether Wilson discloses claim limitation [1].

With regards to claims 8-12 this issue turns on whether Wilson discloses claim limitation [1] and the other claim limitations that have been specifically argued by the Appellants.

FINDINGS OF FACT

We find the following enumerated findings of fact (FF) are supported at least by a preponderance of the evidence:¹

FF1. Wilson has disclosed a system for end-to-end fulfillment and supply chain management (Title).

FF2. Wilson discloses that a client generates an order on behalf of a customer with the order including location data corresponding to the customer geographical location. A promising engine identifies a warehouse based in part on the location data for the nearest warehouse to the customer that has the ability to ship within a specified timeframe. (Abstract).

FF3. Wilson in [0013] has disclosed that the promising engine reviews the order. Wilson also discloses that item data may include customer shipment terms such as delivery date and desired type of delivery. After the customer has submitted at least one order, the method may include notifying the customer that the at least one item will ship. The shipping warehouse may operate in a first-in, first-out manner (FIFO) such that items ship in the order that ship items are received.

FF4. Wilson in paragraph [0039] discloses that an advanced planning and scheduling (APS) application provides inventory and order management.

¹ See *Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

PRINCIPLES OF LAW

Principles of Law Relating Claim Construction

We determine the scope of the claims in patent applications not solely on the basis of the claim language, but upon giving claims their broadest reasonable construction in light of the specification as it would be interpreted by one of ordinary skill in the art. *In re Am. Acad. of Sci. Tech. Ctr.*, 367 F.3d 1359, 1364 (Fed. Cir. 2004). The properly interpreted claim must then be compared with the prior art.

Principles of Law Relating to Anticipation

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). Analysis of whether a claim is patentable over the prior art under 35 U.S.C. § 102 begins with a determination of the scope of the claim.

ANALYSIS

The Appellants argue that the rejection of claim 7 is improper because Wilson does not disclose “said generation sequence determined by said 1H information of said demand information” (Br. 9-10).

In contrast the Examiner has determined that the cited claim limitation for “said generation sequence determined by said 1H information of said demand information” is met by Wilson. The Examiner has determined that “a generation sequence is simply an order in which things take place” and

that “Wilson[’s] process takes steps (sequence) to the request (1H) of the consumer” which could be for example, overnight delivery (Ans. 7).

We agree with the Examiner. Claim 7 includes limitation [1] which requires “said generation sequence determined by said 1H information of said demand information”. Given the broadest reasonable interpretation in light of the Specification this requires that there is some generation of a sequence based on 1H information (which is “how” information). Wilson has disclosed a system for end-to-end fulfillment and supply chain management (FF1). Wilson has disclosed that the process may include customer shipment terms such as the delivery date and the desired type of delivery (FF3). In Wilson, after the customer has submitted at least one order, the method may include notifying the customer that the at least one item will ship and a FIFO system is used for the shipment of orders (FF3). Thus, Wilson meets the cited claim limitation because there must be a sequence for the order to be placed, the delivery date to be determined, and the notification to the customer that the item will ship. Clearly, the FIFO system also determines a sequence for the shipment of orders. Further, Wilson discloses that an advanced planning and scheduling (APS) application provides order management (FF4) which would imply that some level of a sequence being generated in the planning and scheduling. For these reasons, the rejection of claim 7, and dependent claim 8 which has not been separately argued, is sustained.

With regards to claims 9-12 the Appellants also argue that Wilson fails to disclose the claim limitations for “said business procedure defining a generation sequence” and for “a business flow defining a relationship among a plurality of sets of said business procedure” (Br. 10-12, Reply Br. 1-3).

The Examiner has also determined that Wilson discloses these claimed features as well (Ans. 8-9).

We agree with the Examiner. Wilson has disclosed that the process may include customer shipment terms for the delivery date, the desired type of delivery and that after the customer has submitted an order, notifying the customer that the at least one item will ship, and FIFO delivery (FF3). Thus each of those steps (determining the delivery date, specifying the delivery type, notifying the customer that the item will ship, and FIFO delivery) is a “business procedure” that would have a sequence at least including receiving the request from the customer, filling the need, and delivering the need. Further, the combined procedures (determining the delivery date, specifying the delivery type, notifying the customer that the item will ship, and FIFO delivery) together would constitute a “business flow defining a relationship among a plurality of sets of said business procedure”. Clearly notifying the customer that delivery will take place and the FIFO delivery for example each would have a set sequence. For these reasons the rejection of claims 9-12 is sustained.

CONCLUSIONS OF LAW

We conclude that Appellants have not shown that the Examiner erred in rejecting claims 7-12 under 35 U.S.C. § 102(e) as anticipated by Wilson.

DECISION

The Examiner’s rejection of claims 7-12 is sustained.

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Application 09/965,174

AFFIRMED

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